

TO: The Honorable Board of Supervisors

FROM: L. Carol Edmonds, Interim County Administrator

DATE: June 22, 2009

SUBJECT: AGENDA REPORT

I. CALL TO ORDER

II. INTO CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711

- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body

- 1. Blacksburg Technology Manufacturing Building

- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body

- 1. Adjustment and Appeals Board
- 2. BZA
- 3. Library Board
- 4. MBC Development Corporation
- 5. Social Services Board
- 6. Personnel

III. OUT OF CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

IV. CERTIFICATION OF CLOSED MEETING

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

NAYS

ABSENT DURING VOTE

ABSENT DURING MEETING

V. INVOCATION

VI. PLEDGE OF ALLEGIANCE

VII. PUBLIC HEARINGS

A. SUBJECT: BOARD OF SUPERVISORS

The following public hearings were advertised pursuant to law in the Current Section of the Roanoke Times on May 27, 2009 and June 3, 2009:

1. Rezoning & Special Use Permit – S&P of Virginia – CONTINUED

A request by S&P of Virginia, LLC (Agent: Balzer & Associates) for rezoning of approximately 21.13 acres from Agriculture (A1) to General Business (GB) and 14.19 acres from Agriculture (A1) to Residential (R3), with possible proffered conditions, to allow various commercial uses and single family residential dwellings. In addition, a special use permit is requested in the General Business (GB) district to allow a convenience store with motor fuel sales. The property is located on the Southwest corner of the I-81. Exit 109 and Tyler Road (Rte. 600) intersection, 2735 Tyler Road, identified as Tax Parcel No(s). 104-A-32, 32A, 33 and 104-7-A, (Acct Nos. 018647, 011957, 019186, 023358), in the Riner Magisterial District. The property currently lies in an area designated as Urban Expansion in the Comprehensive Plan and further designated as Planned Commercial and Planned Unit Residential in the Route 177 Corridor Plan with a maximum density of four (4) dwelling units per acre. See TAB A for a copy of a letter from the Planning Commission.

At their June 10, 2009 meeting, the Planning Commission tabled the request in order for the applicant to adequately address staff concerns in the following areas; 1) transportation/access including roundabout design, 2) water/sewer capacity issues, 3) quality of construction, and 4) pedestrian connectivity. Therefore, this public hearing is continued.

2. Rezoning Request – Bedford Falls Company

A request by Bedford Falls Company for rezoning of approximately 0.923 acres from General Business (GB) to Residential (R3), with possible proffered conditions. The property is located at 1517 Fire Tower Road (Rte. 600), identified as Tax Parcel No(s). 90-A-29A, (Acct No. 020005), in the Riner Magisterial District. The property currently lies in an area designated as Medium Density Residential & Civic in the Plum Creek Village Plan in the Comprehensive Plan with a maximum density of two (2) dwelling units per acre. See TAB B.

3. Ordinance Amendment – Chapter 10, Section 10-41(2), Accessory Dwellings

An Ordinance amending Chapter 10 entitled Zoning, Section 10-41(2), Accessory Dwellings of the Code of the County of Montgomery, Virginia by amending when accessory dwellings are permitted structures in the Agricultural (A-1) and Conservation (C-1) zoning districts. See TAB C.

4. Ordinance Amendment – Chapter 10, Section 10-38, Airport Safety Overlay District

An Ordinance amending Chapter 10 entitled Zoning, Section 10-38, Airport Safety Overlay District (ASO) of the Code of the County of Montgomery, VA by incorporating a map and terms defining the Airport Overlay Boundaries and by creating a notification area whereby the airport will be notified of proposed construction within the notification area. See TAB D.

5. Ordinance Amendment – Chapter 10, Section 10-37, Flood Damage Prevention Overlay

An Ordinance amending Chapter 10 entitled Zoning, Sections 10-37, Flood Damage Prevention Overlay, of the Code of the County of Montgomery, VA by amending the flood damage prevention overlay by incorporating the new flood insurance study and flood insurance rate map for Montgomery County and by amending the qualifying regulated lands and the use limitations within those regulated lands and by adding a section of defined terms in the Flood Damage Prevention Overlay. See TAB E.

6. Ordinance Amendment – Planning and Zoning Fee Schedule

An Ordinance amending the Montgomery County, VA Planning and Zoning Fee Schedule to increase application and review fees approximately 25% for rezoning, special use permits, subdivisions, site plans, variances, comprehensive plan amendments and other similar land use related applications; add a new fee for family subdivision review and zoning permits; and require applicants to pay fees associated with all newspaper notifications. See TAB F.

VIII. PUBLIC ADDRESS

IX. ADDENDUM

X. CONSENT AGENDA

XI. OLD BUSINESS

A. SUBJECT: ORDINANCE AMENDMENT – CHAPTER 1 SECTION 1-6

ORD-FY-09- AN ORDINANCE AMENDING CHAPTER 1 ENTITLED GENERAL PROVISIONS SECTION 1-6 OF THE CODE OF THE COUNTY OF MONTGOMERY VIRGINIA BY CLARIFYING THAT THE COURTHOUSE SECURITY FEE ASSESSED AS ADDITIONAL COSTS IN CRIMINAL OR TRAFFIC CASES SHALL APPLY TO JUVENILE DOMESTIC RELATIONS DISTRICT COURT AND THAT THE PROCESSING FEE SHALL BE ORDERED AS PART OF COURT COSTS WHEN AN INDIVIDUAL IS ADMITTED TO THE REGIONAL JAIL

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia that Chapter 1 entitled General Provisions, Section 1-6 of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

Sec. 1-6. Classification of and penalties for violations; continuing violations.

(a) Whenever in this Code or any other ordinance of the county, or any rules or regulations promulgated by any officer or agency of the county, under authority duly vested in such officer or agency, it is provided that a violation of any provision thereof shall constitute a class 1, 2, 3 or 4 misdemeanor, such violation shall be punished as provided in Code of Virginia, section 18.2-11.

(b) Whenever in any provision of this Code or in any other ordinance of the county, or any rule or regulation promulgated by an officer or agency of the county, under authority duly vested in such officer or agency, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required, or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided for the violation of such provision and such violation is not described as being of a particular class of misdemeanor, such violation shall constitute a class 1 misdemeanor.

(c) Notwithstanding any other provision of this section or any other section of this Code or any ordinance, rule or regulation, no penalty for the violation of this Code or other ordinance, rule or regulation of the county shall exceed that prescribed by state law for a like offense.

(d) Each day any violation of this Code or any other ordinance, rule or regulation referred to in this section shall continue shall constitute a separate offense, except where otherwise provided.

(e) The board of supervisors may bring suit in the circuit court to restrain, enjoin or otherwise prevent a violation of this Code.

(f) Pursuant to section 17.1-281 of the Code of Virginia, 1950, as amended, that a fee of two dollars (\$2.00) is hereby assessed as additional costs in each civil, criminal or traffic case in general district court, juvenile domestic relations court, and circuit court, the proceeds of this assessment shall be used for the construction, renovation or maintenance of courthouse or jail and court-related facilities and to defray increases in the cost of heating, cooling, electricity, and ordinary maintenance.

(g) Pursuant to section 53.1-120 of the Virginia Code, 1950, as amended, a fee of ten dollars (\$10.00) is hereby assessed as additional costs in each criminal or traffic case in the general and juvenile and domestic relations district courts and in circuit court in which the defendant is convicted of a violation of any statute or ordinance. This assessment shall be collected by the clerk of court in which the case is heard, and remitted to the Montgomery County Treasurer. The board of supervisors shall appropriate these fees to the Montgomery County Sheriff's Office for the funding of courthouse security personnel.

(h) Pursuant to section 15.2-1613.1 of the Virginia Code, 1950, as amended, a processing fee of twenty-five dollars (\$25.00) is hereby assessed on any individual admitted to the Montgomery County Jail or the regional jail following conviction. This processing fee shall be ordered as a part of court costs collected by the clerk ~~of the appropriate court~~ of court in which the case is heard and deposited into the account of the Montgomery County Treasurer. The board of supervisors shall appropriate this processing fee to the Montgomery County Sheriff's Office to defray the costs of processing arrested persons into the Montgomery County Jail or the regional jail.

ISSUE/PURPOSE:

Ordinance amending Chapter 1, Section 1-6 to add Juvenile and Domestic Relations District Court as a court to assess the additional ten dollars in each criminal and traffic case.

XII. NEW BUSINESS

A. SUBJECT: BROADVIEW WATER WORKS LLC LAND PURCHASE AGREEMENT

R-FY-09- A RESOLUTION APPROVING THE REAL ESTATE SALES AGREEMENT BETWEEN BROADVIEW WATER WORKS, LLC AND THE COUNTY OF MONTGOMERY, VIRGINIA

BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby approves the Real Estate Sales Agreement by and between Broadview Water Works, LLC and the County of Montgomery, Virginia for the purchase of 5.656 acres in the Town of Christiansburg adjacent to the Montgomery County Government Center; and

BE IT FURTHER RESOLVED, By the Board of Supervisors that the Board hereby authorizes Annette S. Perkins, Chair, to sign the Real Estate Sales Agreement and all other documents required to acquire the Property on behalf of the Board of Supervisors.

ISSUE/PURPOSE: To approve the real estate sales agreement between Broadview Water Works, LLC.

JUSTIFICATION: A copy of the Real Estate Sales Agreement is included in TAB G.

B. SUBJECT: RESOLUTION OF APPRECIATION LIBRARY BOARD – ROBERT E. BENOIT

R-FY-09- MONTGOMERY-FLOYD REGIONAL LIBRARY BOARD – ROBERT E. BENOIT

WHEREAS, Robert E. Benoit has served the citizens of Montgomery County as a member of the Montgomery-Floyd Regional Library Board from July 1, 2001 through June 30, 2009; and

WHEREAS, Robert E. Benoit served as treasurer in 2003-2004 and as chair of the Montgomery-Floyd Regional Library Board during the last year; and

WHEREAS, Robert E. Benoit has played a vital role in supporting the quality of life in our community through his work on the Montgomery-Floyd Regional Library Board; and

WHEREAS, The Board of Supervisors recognizes the hard work, dedication, experience and leadership **Robert E. Benoit** has demonstrated in his eight years of service on the Montgomery-Floyd Regional Library Board.

NOW, THEREFORE, BE IT RESOLVED, The Board of Supervisors of Montgomery County, Virginia, on behalf of the entire citizenship, expresses its appreciation and gratitude to **Robert E. Benoit** for his outstanding dedication to the community and the citizens of Montgomery County.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to **Robert E. Benoit** as a testimonial of the high esteem and appreciation in which he is regarded by the members of the Board of Supervisors and that a copy be made a part of the official minutes of Montgomery County.

**C. SUBJECT: RESOLUTION OF APPRECIATION
LIBRARY BOARD – DAVE L. COLLINS**

**R-FY-09-
MONTGOMERY-FLOYD REGIONAL
LIBRARY BOARD - DAVID L. COLLINS**

WHEREAS, David L. Collins has served the citizens of Montgomery County as a member of the Montgomery-Floyd Regional Library Board from July 24, 2001 through June 30, 2009; and

WHEREAS, David L. Collins served as secretary of the Montgomery-Floyd Regional Library Board during the last year; and

WHEREAS, David L. Collins has played a vital role in supporting the quality of life in our community through his work on the Montgomery-Floyd Regional Library Board; and

WHEREAS, The Board of Supervisors recognizes the hard work, dedication, experience and leadership **David L. Collins** has demonstrated in his eight years of service on the Montgomery-Floyd Regional Library Board.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to ***David L. Collins*** as a testimonial of the high esteem and appreciation in which he is regarded by the members of the Board of Supervisors and that a copy be made a part of the official minutes of Montgomery County.

R-FY-09
NEW RIVER COMMUNITY COLLEGE
BOARD – JAMES F. JOHNSON

WHEREAS, The Board of Supervisors of Montgomery County recognizes the impartial and dedicated service that **James F. Johnson** has rendered the citizens of Montgomery County.

BE IT FURTHER RESOLVED, That the original of this resolution be presented to ***James F. Johnson*** as a testimonial of the high esteem and appreciation in which he is regarded by the members of the Board of Supervisors and that a copy be made a part of the official minutes of Montgomery County.

XIII. INTO WORK SESSION

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Industrial Development Authority Name Change
2. Tourism Program (TAB H)

XIV. OUT OF WORK SESSION

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

XV. COUNTY ATTORNEY'S REPORT

XVI. COUNTY ADMINISTRATOR'S REPORT

XVII. BOARD MEMBERS' REPORT

1. Supervisor Creed
2. Supervisor Brown
3. Supervisor Marrs
4. Supervisor Biggs
5. Supervisor Politis
6. Supervisor Muffo
7. Supervisor Perkins

XVIII. OTHER BUSINESS

XIX. ADJOURNMENT

FUTURE MEETINGS

Regular Meeting
Monday, July 13, 2009
6:00 p.m. – Closed Meeting Items
7:15 p.m. Regular Agenda

Adjourned Meeting
Monday, July 27, 2009
6:00 p.m. – Closed Meeting Items
7:15 p.m. Regular Agenda